

Pensions Update



Pensions Act 2008

There will be a new pensions Act this year (there now seems to be a new one most years), the chief focus of which will be the new personal accounts. While these accounts are not due to become active until 2012 it may be worth taking note of the issues they may bring.

The current intention is that the new personal accounts regime (it is likely the name will change but not the intention) will require both compulsory contributions from employers for all employees joining them and compulsory membership for all employees who are not excused by way of being members of a pension scheme which falls within qualifying exemptions.

It is also intended that all individuals required to have a personal account will pay a minimum compulsory contribution level.

Potentially the impact of the new personal accounts is huge; it will require all employers to consider whether their current provisions are sufficient and whether they wish to take advantage of the new regime.

The exact details of how these new accounts will work and the other provisions of the 2008 Act are as yet undecided; the bill is currently at

its second reading stage in the House of Commons. We would recommend a watchful eye on the outcome and will update you accordingly.

Sea Containers

It has been confirmed by the Pensions Regulator that the appeal in this case has been dropped. For those not familiar with it, the Pensions Regulator has imposed a Financial Support Directive on Sea Containers Limited; a Bermuda based company to the amount of £133 million pounds. We would suggest all companies need to consider, in their actions towards any pension schemes they sponsor, that the Regulator is clearly willing to take action to protect occupational schemes. It appears the much trumpeted moral hazard provisions are going to be used when necessary.

Sex Equalisation

It has recently become clear that not all occupational schemes which dealt with the question of Sex Equalisation in the 1990's may have done so correctly. There have been a number of recent cases suggesting that many schemes have not equalised and, as a result, for some schemes the "Barber Window" may remain open and the level of benefits due to be paid by the scheme may be higher than currently anticipated. This is a potentially large increased cost to schemes. We would recommend confirming that your scheme has no such issues. Many of the schemes that have identified this issue have only done so while due diligence is being carried out in preparation for a proposed company sale, often impacting directly on the likely success of the transaction.

Some schemes may have negligence claims against their then professional advisers should there prove to be an issue. Some may have claims against the provider of their scheme should that provider also have produced the scheme documentation. The concern would be whether any such claims are now time barred. If you think this might be an issue for your scheme you need to take action now as time limits are rapidly expiring.

Clearance Applications

On 7 August 2007, the Department for Work and Pensions (DWP) issued draft Amending Regulations to the Employer Debt Regulations for consultation. Consultation closed on the 7th of October 2007. We

are now awaiting the outcome of this consultation. It is expected that the process will lead to changes to the draft Regulations.

The Amending Regulations should introduce new methods for dealing with the apportionment of, and liability for, employer debts in multi-employer schemes. The new Regulations should provide new options for dealing with employer debts. Knowing how amendments to regulations have worked previously it is also entirely possible the changes will create new problems. We will keep you advised of the changes and how they will impact.

Conclusion

The above are just some of the areas that will need to be considered when dealing with pensions issues in the coming years. One thing is certain, given the rapid developments in pensions law in recent years, there will be further changes this year.....

If we can be of assistance, please contact

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